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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,502	07/03/2003	Colin Ford	7180	3494

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EXAMINER

DESAI, HEMANT

ART UNIT PAPER NUMBER

3721

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,502

Applicant(s)

FORD ET AL.

Examiner

Hemant M Desai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-20,23-26 and 28-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-20,23-26,28 and 29 is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-11,30-32 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-5, 7, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petry et al. (5175976) in view of Odenthal (4899790).

Petry et al. disclose a system for packaging products, comprising a series of carriers (conveyor 4, fig. 1) each adapted to receive at least one product therein (see fig. 1), an inserter unit (10, fig. 1) that receives and moves the carriers in spaced series along a path of travel for packaging, and which includes a series of inserter assemblies (see fig. 2) adapted to engage and urge the products out of the carriers, and a carton transport conveyor (carton conveyor 2, see fig. 1) moving a series of cartons (1, fig. 1) in timed relationship with the movement of the carriers along their path of travel such that the products are received within the cartons as the products are urged out of the carriers by the inserter assemblies, and a funnel conveyor (7, fig. 1) positioned between the inserter unit (10) and the carton transport conveyor (2) and having a series of funnels (5, 6, fig. 1) mounted there along for guiding groups of the products into the cartons of the carton transport conveyor, so that for each of the funnels a respective group of the groups of the products passes through an upstream opening of the funnel

and then through a downstream opening of the funnel while the funnel guides the respective group of the products into a respective carton of the cartons.

Petry, as mentioned above, disclose all the claimed limitations, except for the shape of the funnel. However, Odenthal teaches a funnel conveyor having a having a series of funnels (4, fig. 3) and the funnel tapers so that the downstream opening of the funnel is narrower than the upstream opening of the funnel to guide the product into container (2, fig. 3). Therefor it would have been obvious to one having ordinary skill in the art at the time the invention was made to having provided the funnel which tapers so that the downstream opening of the funnel is narrower than the upstream opening of the funnel as taught by Odenthal in the funnel conveyor of system for packaging product of Petry et al. to guide the product into container.

Regarding claim 3, the carton conveyor includes a series of spaced carton locator device (see fig. 1).

Regarding claim 4, the carriers (14) are loaded with the products (see fig. 1) and are conveyed to the inserter unit.

Regarding claim 5, the inserter unit includes a guide track (see fig. 2) to be engaged by the carriers as they move along their path of travel for merging the carriers into a single line of carriers moving through the inserter unit.

Regarding claim 7, the inserter assemblies (10) each comprises an inserter rod slideably mounted to a support and moveable from a retracted, non-engaging position into an extended, engaging position for urging the products out of their carriers (see fig. 2).

Regarding claim 8, a cam follower (see fig. 2) mounted to each inserter rod and engaging a cam track (not shown) for moving each inserter rod between its engaging and non- engaging positions.

Regarding claim 10, a carrier conveyor (2) having loading station (see fig. 1) at an upstream end, wherein a series of products from at least one product transport line are received and loaded into each carrier.

3. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petry et al. (5175976) and Odenthal, as applied to claims 1 and 10, and further in view of Tisma (5388389).

The system for packaging products of Petry et al. as modified by Odenthal meets all the claimed limitations of claims 9 and 11, except for the side plates are pivotable towards an open position for receiving products therein.

However, Tisma teaches a carrier (mandrel-14, fig. 6) having two opposed side walls (14a, 14b, fig. 6), which are slidably attached so as to slide toward an open position for receiving the products (see col. 6, lines 36-40) so that the drop of product does not have to be a too accurate. There for It would have been obvious to one having ordinary skill in the art at the time the invention was made to having provided slidably attached opposed sidewalls of carrier of Petry et al. as taught by Tisma so as to slide toward an open position for receiving the products so that the drop of product does not have to be a too accurate.

Regarding claim 11, Petry et al., as mentioned above, disclose all the claimed limitations, except for multiple product transport lines. However, Trisma teaches multiple

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product transport lines (26, fig. 1) to load the products into the carrier (12, see col. 3, lines 43-44). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to having provided multiple product transport lines as taught by Trisma in the system for packaging products of Petry et al. to load the products into each carrier.

Allowable Subject Matter

4. Claims 12-20, 23-26, 28 and 29 are allowed.
2. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments with respect to claims 1, 3-5, 7-11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemant M Desai whose telephone number is (571) 272-4458. The examiner can normally be reached on 7:00 AM-5: 30 PM, Mon-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hemant M Desai
Examiner
Art Unit 3721

HMD



Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700